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Open-ended Working Group on Ageing
Third working session
New York, 21-24 August 2012

Report of the Open-ended Working Group on Ageing

Rapporteur: Janet Zeenat **Karim** (Malawi)

I. Organization of the session

A. Opening and duration of the session

1. The Open-ended Working Group on Ageing, established by the General Assembly in its resolution 65/182 for the purpose of strengthening the protection of the human rights of older persons, held its third working session at United Nations Headquarters from 21 to 24 August 2012. The Working Group held seven meetings.

2. The session was opened by the Vice-Chair of the Working Group, Léo Faber (Luxembourg).

B. Attendance

3. The session was attended by representatives of States Members of the United Nations. Representatives of organizations of the United Nations system and observers for intergovernmental and non-governmental organizations also attended. A list of participants, contained in document A/AC.278/2012/INF/1, is available from http://social.un.org/ageing-working-group/thirdsession.shtml.

C. Election of officers

4. At the 1st meeting of the session, on 21 August, the Working Group elected, by acclamation, Mateo Estrémé (Argentina) as Chair, following the resignation of Jorge Argüello (Argentina).

5. At the same meeting, the Working Group elected Janet Zeenat Karim (Malawi) as Rapporteur.

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D. Agenda and organization of work

6. Also at the 1st meeting, the Working Group adopted the provisional agenda, as contained in document A/AC.278/2012/L.1. The agenda read as follows:

1. Election of officers.
2. Adoption of the agenda and other organizational matters.
3. Participation of non-governmental organizations in the work of the Open-ended Working Group on Ageing.
4. Existing international framework on the human rights of older persons and identification of existing gaps at the international level.
5. Other matters.
6. Provisional agenda for the next working session of the Open-ended Working Group on Ageing.
7. Adoption of the report.

7. At the same meeting, the Working Group approved the proposed organization of work for its third working session, as set out in an informal paper, in English only.

E. Participation of non-governmental organizations in the work of the Open-ended Working Group on Ageing

8. Also at the 1st meeting, the Working Group decided to grant accreditation to the following non-governmental organizations to participate in its work:

AGE Platform Europe (Belgium/France)

Ageing Nepal (Nepal)

American Federation for Ageing Research (United States of America)

Association camerounaise pour la prise en charge des personnes âgées (ACAMAGE) (Cameroon)

Brotherhood of St. Laurence (Australia)

Central Indiana Council on Ageing, Inc., Ageing and In-Home Solutions (United States of America)

Centro de Capacitación y Desarrollo CEC (Chile)

European Federation of Retired and Older People (Belgium/France)

Fédération de l'Âge d'Or du Québec (FADOQ) (Canada)

Fiji Council of Social Service (Fiji)

Grupo Iberoamericano Interdisciplinario de Gerontología (Uruguay)

HelpAge India (India)

HelpAge Sri Lanka (Sri Lanka)

International Consortium for Social Development — Asia Pacific Branch (Australia)

Law in the Service of the Elderly (Israel)

National Alliance for Caregiving (United States of America)

F. Documentation

9. The list of documents before the Working Group at its third working session is available from http://social.un.org/ageing-working-group/thirdsession.shtml.

II. Existing international framework on the human rights of older persons and identification of existing gaps at the international level

10. The Working Group considered item 4 of its agenda at the 1st to 7th meetings of its third working session, from 21 to 24 August 2012. It held a general discussion of the item at the 1st meeting.

11. At the 1st meeting, the Working Group heard statements by the representatives of the European Union, Switzerland, China, the United States of America, Japan, Australia, Brazil, Thailand, Argentina, Indonesia, India, South Africa, Malaysia, Ghana, Costa Rica, Canada, Turkey, the Philippines, the Netherlands, Bangladesh, Pakistan, El Salvador and Uruguay.

12. At the same meeting, statements were made by the representatives of the following non-governmental organizations: American Association of Retired Persons (AARP) on behalf of Global Alliance for the Rights of Older People; HelpAge International; International Federation for Home Economics; International Council on Social Welfare; Silver Inning Foundation; and World Network of Users and Survivors of Psychiatry.

Panel discussion on "Age discrimination"

13. At the 2nd meeting, on 21 August, the Working Group held a panel discussion on the topic of "Age discrimination", moderated by Charles Radcliffe from the Office of the United Nations High Commissioner for Human Rights (OHCHR). Presentations were made by the following panellists: Alejandro Morlacchetti, Professor of Economic, Social and Cultural Rights, University of La Plata (Argentina); Susan Ryan, Age Discrimination Commissioner (Australia); and Louise Richardson, Vice-President, AGE Platform Europe (Ireland).

14. The Working Group then held a dialogue with the panellists, in which the representatives of Brazil, Sweden, Austria, Canada, Chile, Argentina, El Salvador and the Economic Commission for Latin America and the Caribbean (ECLAC) participated. The representatives of the following non-governmental organizations also participated: European Federation of Centres of Research and Information on Sectarianism, HelpAge International, ACAMAGE, International Network for the Prevention of Elder Abuse, Inc. (INPEA), New Future Foundation, Gray Panthers, Global Action on Ageing and Dementia SA (South Africa).

Panel discussion on "Autonomy, independent living and health care"

15. At the 3rd meeting, on 22 August, the Working Group held a panel discussion on the topic of "Autonomy, independent living and health care".

16. The panel discussion was moderated by Najat el Mekkaoui, member of the National Council of Human Rights of Morocco. Presentations were made by Amanda McRae, Disability Rights Researcher, Human Rights Watch; Horst Krumbach, Nursing Home Administrator (Germany); and Athina-Eleni Georgantzi, Legal and Research Officer, AGE Platform Europe.

17. The Working Group then held a dialogue with the panellists, in which the representatives of Germany, Argentina, the Netherlands, Brazil, Costa Rica, Israel, Togo, Austria, Sweden and ECLAC participated. The representatives of the following non-governmental organizations also participated: HelpAge International; Loreto Community; Open Society Foundations, International Palliative Care Initiative; International Federation on Ageing (IFA); National Alliance for Caregiving (United States); World Network of Users and Survivors of Psychiatry; International Association of Homes and Services for the Ageing; INPEA; and International Association of Gerontology and Geriatrics (IAGG).

Panel discussion on "Life in dignity, social security and access to resources"

18. At the 4th meeting, on 22 August, the Working Group held a panel discussion on the topic of "Life in dignity, social security and access to resources".

19. The panel discussion was moderated by Louise Richardson, Vice-President of AGE Platform Europe. Presentations were made by Anne-Mette Kjaer Hesselager, Head of Section, Law and International Affairs, Ministry of Social Affairs and Integration (Denmark); Alejandro Morlacchetti, Professor of Economic, Social and Cultural Rights, University of La Plata (Argentina); and Najat el Mekkaoui, member of the National Council of Human Rights of Morocco.

20. The Working Group then held a dialogue with the panellists, in which the representatives of Germany, Malaysia, China, Togo, Israel, Japan, Uruguay, the Sudan, Ghana, El Salvador, Canada, Chile, Brazil and Costa Rica participated. The representatives of the following non-governmental organizations also participated: Global Action on Ageing, HelpAge International, New Future Foundation, INPEA, FADOQ, Loreto Community and IAGG.

Panel discussion on "Abuse and violence"

21. At the 5th meeting, on 23 August, the Working Group held a panel discussion on the topic of "Abuse and violence".

22. The panel discussion was moderated by Maarit Kohonen Sheriff of OHCHR. Presentations were made by Athina-Eleni Georgantzi, Legal and Research Officer, AGE Platform Europe; K. R. Gangadharan, President of IFA; Claudia Martin, Co-Director of the Academy on Human Rights and Humanitarian Law; and Bem Angwe, Professor of Law and Executive Secretary of the National Human Rights Commission of Nigeria.

23. The Working Group then held a dialogue with the panellists, in which the representatives of Brazil, Costa Rica, Senegal, Canada, Argentina, Israel, Japan, Qatar, India, the Netherlands, Pakistan, Ghana, Togo, Uruguay, Austria and Niger

participated. The representatives of the following non-governmental organizations also participated: Silver Inning Foundation, Global Action on Ageing, HelpAge International, INPEA and Young Women's Christian Association of Nigeria.

Panel discussion on "Access to justice"

24. At the 6th meeting, on 23 August, the Working Group held a panel discussion on the topic of "Access to justice".

25. The panel discussion was moderated by Jill Adkins, Attorney and Consultant, Age Rights International. Presentations were made by Charles Sabatino, Director, American Bar Association Commission on Law and Ageing; and Claudia Martin, Co-Director of the Academy on Human Rights and Humanitarian Law.

26. The Working Group then held a dialogue with the panellists, in which the representatives of Uruguay, South Africa, Argentina, Canada, Costa Rica and ECLAC participated. The representatives of the following non-governmental organizations also participated: Association of Law in the Service of the Elderly, United States Burn Support Organization, New Future Foundation, IAGG, World Network of Users and Survivors of Psychiatry, Silver Inning Foundation, INPEA, World Education Fellowship, FADOQ, National Academy of Elder Law Attorneys, HelpAge International and International Alliance of Women.

Discussion on the way forward

27. At the 7th meeting, on 24 August, the Working Group held a discussion on the way forward, in which statements were made by the delegations of Burkina Faso (on behalf of the African States), the European Union, the Bolivarian Republic of Venezuela, Sweden, Switzerland, Argentina, Uruguay, the Netherlands, the United States, Japan, Albania, Chile, El Salvador, Malaysia, Brazil, Costa Rica, Mexico, Canada and China. Statements were also made by the representatives of the following non-governmental organizations: Age UK, IFA, HelpAge International, New Future Foundation, International Alliance for Women, IAGG, INPEA, International Longevity Centre on behalf of Global Alliance for the Rights of Older People, Global Action on Ageing and AARP.

28. At the same meeting, the Chair reminded delegations that the provisional agenda of any future working sessions of the Working Group would be considered in the Third Committee of the General Assembly during the sixty-seventh session, under the agenda item entitled "Social development".

III. Chair's summary of the key points of the discussions

29. At the 1st meeting, the Working Group agreed to include the Chair's summary of the key points of the panel discussions in the report on the session. The Chair's summary reads as follows:

Introduction

The General Assembly created the Open-ended Working Group on Ageing in December 2010 to consider the existing international framework on

the human rights of older persons and identify possible gaps and how best to address them, including by considering, as appropriate, the feasibility of further instruments and measures.

The Working Group held its first organizational meeting in February 2011, which was followed by two working sessions organized around five main topics: discrimination and multiple discrimination; the right to the enjoyment of the highest attainable standard of physical and mental health; violence and abuse; social protection and the right to social security; and age and social exclusion.

These working sessions included panel presentations and discussions about the current situation of human rights of older persons, presented by expert panellists from around the world. In examining the extent to which policies, practices and legislation address the human rights of older persons, the panellists voiced concern regarding the inadequate attention and pace of action granted to older persons at both national and international levels, and made reference to the limitations of existing mechanisms.

General overview

The third session of the Working Group drew on the enquiries made by Member States at the second working session and revisited specific issues to develop a better understanding of those issues and provide more evidence-based options for addressing them. The session consisted of interactive expert panel discussions on age discrimination; autonomy, independent living and health care; life in dignity, social security and access to resources; and abuse and violence. A new thematic issue, namely access to justice, was explored in a fifth panel session.

It was evident from the increased participation of Member States, particularly from Africa and Asia, in the third working session that promoting and protecting human rights as essential elements for creating an inclusive society in which older persons participate fully and without discrimination, continues to be an issue of interest and importance to Member States. The number of civil society organizations in attendance also rose significantly, along with the level and quality of their interventions and documentary submissions.

In their general statements, several countries observed that existing international human rights standards and principles apply to older persons, including the right to health and social security as well as the prohibition of violence and discrimination, and that current deficiencies in the protection of the rights of older persons could be addressed by more effective implementation of the existing mechanisms. Delegations highlighted the importance of sharing best practices and considering how to build on available initiatives at the national, regional, interregional and international levels to address the main causes of protection gaps and age discrimination.

Several other countries focused their attention on the need to ensure more comprehensive protection of the human rights of older persons, pointing to existing normative and protection gaps. Some delegates stated that while

existing human rights conventions offered considerable potential to promote and protect the rights of older persons, that potential was not being tapped and the existing international framework was not specific enough to provide sufficient protection for older persons. Speakers called for drafting a new international instrument, a United Nations convention on the rights of older persons, to provide a binding treaty that would identify the rights of older persons and the obligations of State parties to the convention to promote, protect and ensure those rights.

Some representatives of civil society organizations and networks cautioned that age discrimination and ageism were widely tolerated across the world and that older persons continued to be highly vulnerable to abuse, deprivation and exclusion. They called for the establishment of a convention on the rights of older persons as the only real means to ensure the protection of those rights. Civil society organizations and networks urged Member States to continue and support the dialogue through the Working Group and to ensure that the needs of older persons were reflected in national and international development policies, as well as in the planning and delivery of basic social services at all levels.

The option of appointing a special rapporteur or independent expert of the Human Rights Council on the rights of older persons was welcomed by several Member States. A special rapporteur could be entrusted to examine, monitor and advise on the situation of older persons and establish standards and good practices that would target full and equal enjoyment of all human rights and fundamental freedoms by older persons without discrimination.

Many speakers referred to the notion of mainstreaming the rights of older persons within existing human rights frameworks, including the universal periodic review process and the activities of treaty bodies, special mandate holders and United Nations entities that have adopted a rights-based approach. Delegates called for greater involvement by national human rights institutions and intensified cooperation with civil society actors and the private sector to improve the condition of older persons.

Representatives of civil society organizations and networks agreed on the urgency of the situation of older persons and the need to continue meaningful and comprehensive discussions within the United Nations on ageing issues, mainly through the essential work of the Open-ended Working Group on Ageing. They also mentioned the importance of the fifty-first session of the Commission on Social Development in February 2013, at which the second global review and appraisal of the Madrid International Plan of Action on Ageing, 2002,[1] will be conducted.

[1] *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4), chap. I, resolution 1, annex II.

Summaries of panel discussions

Panel 1
Age discrimination

(Moderated by Charles Radcliffe, Chief of the Global Issues Section, OHCHR)

Alejandro Morlachetti, Professor of Law at the University of Buenos Aires in Argentina, informed the Working Group about non-discrimination clauses in international human rights treaties, namely the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and about non-discrimination in the inter-American system. He pointed out that the American Convention of Human Rights does not list age among the grounds of discrimination. While age is explicitly mentioned in various general comments on international human rights treaties, the question remains whether this is sufficient on normative grounds. In addition, general comments have been considered by Member States as non-binding and Member States rarely include references to older persons in their reports to treaty bodies. In conclusion, Mr. Morlachetti stated that an international convention on the rights of older persons would (a) reaffirm basic principles of equality and non-discrimination; (b) establish age as a class that deserves protection; (c) clarify States' responsibilities; (d) provide a framework for action; (e) recognize and protect older persons from multiple discrimination; (f) provide a mandate to adopt special measures; and (g) ensure a reporting and accountability mechanism.

Louise Richardson, Vice-President of AGE Platform Europe, addressed age discrimination in Europe. Despite existing European Union legislation, age inequalities are not dealt with adequately throughout the European Union. Discrimination remains in employment and in the advertising of job openings and in the form of barriers to access to financial services and complementary health insurance. At the same time good practices can be cited in these areas. There can be multiple discrimination with regard to age, as exemplified by discrimination against older women, older migrants and older lesbian, gay, bisexual and transgender persons. To address these issues, Ms. Richardson provided the working group with recommendations, namely to (a) adopt effective legislation to combat age discrimination in access to essential goods and services; (b) combat stereotypes about older workers; (c) consult non-governmental organizations to identify perceptions of fundamental rights; (d) enhance the understanding of barriers encountered by older persons facing multiple discrimination; (e) monitor age discrimination in access to health care and financial services; and (f) remove barriers to the "silver economy".

Susan Ryan, Age Discrimination Commissioner of Australia, presented the experience of her mandate regarding age discrimination. She discussed discriminatory attitudes and workforce barriers facing older persons in Australia, including discrimination in employment and workers' compensation, as well as income protection issues. She argued for the need for an older workforce in Australia in order to (a) meet labour market requirements; (b) accommodate an increase in the pension age; and (c) reduce the costs of ageing to the economy. She noted that the Australian Law Reform Commission had been tasked with inquiring into laws that discriminate on the basis of age, including those relating

to superannuation, family assistance, child support, social security, employment, insurance and compensation laws, and any other relevant legislation exempt under the Age Discrimination Act 2004. Ms. Ryan called for reforms to the health-care system and recommended (a) the incorporation of indicators to monitor the implementation of consumer-directed care; (b) advanced training programmes for caregivers; (c) the development of disaggregated indicators, at least on the basis of sex, race, ethnicity, sexuality, socioeconomic status and place of residence; (d) improvement of the effectiveness of the "Broadband for Seniors" initiative to ensure that older persons are confident Internet users; and (e) human rights training for health workers. Ms. Ryan emphasized the need to develop materials on financial literacy for older persons, and concluded by calling for the consolidation of five federal anti-discrimination acts in Australia to simplify relevant laws and extend protections to older persons on the grounds of sexual orientation and gender identity.

During the interactive dialogue, several Member States and civil society organizations emphasized the centrality of areas of age discrimination outlined by the panellists. Some delegates provided examples of policy responses initiated by their Governments, such as anti-discrimination laws addressing employment and the labour market, measures to overcome stereotypes of old age, measures for age-friendly communities and legislative action to ensure access to goods and services. Others informed the Working Group about the upcoming second ministerial conference in Vienna and ongoing negotiations to adopt a ministerial declaration. The representative of ECLAC spoke about the results of the regional intergovernmental conference held in San José, Costa Rica, on ageing in Latin America and the Caribbean.

Panel 2
Autonomy, independent living and health care

(Moderated by Najat el Mekkaoui, member of the National Council of Human Rights of Morocco, and an expert on social protection for older people)

Amanda McRae, Disability Rights Researcher at Human Rights Watch, organized her presentation around three main topics: (a) defining palliative care; (b) exploring how palliative care affects older persons; and (c) linking human rights to palliative care. Ms. McRae presented specific examples from India and Ukraine. In her recommendations, Ms. McRae stated that existing international frameworks had fallen short of securing older persons' rights to the highest attainable standard of health, including access to palliative care. She called for a legally binding standard, including an explicit reference to the right to palliative care.

Athina-Eleni Georgantzi, Legal and Research Officer at AGE Platform Europe, focused her presentation on autonomy and independent living in relation to different care settings. She highlighted the reality of barriers that older persons face in the enjoyment of their human rights and discussed the need to move towards a rights-based approach to ageing. She concluded that the adoption of an international convention would (a) enhance public awareness of the rights of older persons in terms of autonomy and independent living; (b) promote a social model of ageing and strengthen visibility of older people as rights holders; (c) close loopholes in existing legal frameworks;

(d) give member States a concrete obligation to respect, protect and fulfil those rights; and (e) act as a catalyst for data collection and age-appropriate policies, ensuring that there would be no discrepancies in the understanding and enforcement of older persons' rights.

Horst Krumbach, Nursing Home Administrator and Chief Executive Officer of Generationsbrücke Deutschland, called for paying more attention to elderly citizens, especially care recipients, and their needs. He explained how Generationsbrücke Deutschland initiates, directs and supervises regular meetings between nursing home residents and groups of schoolchildren with the aim of enhancing the quality of life of all involved, especially dementia patients, and raising young people's awareness of the lives and needs of older persons.

During the interactive dialogue, several delegations and civil society representatives reiterated the importance of public health services and preventive strategies for ensuring the autonomy, independent living and well-being of older persons. There was emphasis on the need to identify and reduce discrepancies at the national, regional and international levels. Several delegations and civil society representatives called for a rights-based approach to health, with special attention to gender, disability, ethnic origin and area of residence. Specific topics raised included intergenerational dialogue and solidarity; long-term care and home care; the need to respect the autonomy, will and preferences of older persons; and the need for considering the overlap between old age and disability from a social model perspective to avoid double discrimination. Also highlighted were challenges relating to the shortage of qualified medical staff, especially in rural areas where older people have limited mobility, and the need for capacity-building of facilities and personnel, including informal caregivers, to meet the special needs of older persons.

Panel 3
Life in dignity, social security and access to resources

(Moderated by Louise Richardson, Vice-President of AGE Platform)

Anne-Mette Kjaer Hesselager, Head of Section, Law and International Affairs, Ministry of Social Affairs and Integration of Denmark, informed the Working Group that the commitment to social security in Denmark was underpinned by the international framework, including various United Nations conventions and the Madrid International Plan of Action. As pointed out in the European Report on Development 2010, universal access to basic social protection is feasible and affordable. The Danish Consolidation Act on Social Services stipulates that all adults with impaired physical and mental function shall receive necessary assistance based on an individual needs assessment. Long-term case services cover assistance with personal hygiene, getting in or out of bed and getting dressed. Practical assistance at home may be assistance with cleaning, laundering or shopping. In addition, palliative care and rehabilitative services are available for older persons in Denmark. The overall policy approach to ageing in Denmark has three elements: (a) fully utilize the potential of civil society in the social sector; (b) support older persons' opportunities to stay in the labour market longer; and (c) invest in new solutions to long-term care, including welfare technology. As a result, the

legislation on social pensions was amended in 2008 to give pensioners incentives to work. Overall, Denmark has developed a very elaborate social protection model and is focusing on adapting it to the changing demographics of the coming generations.

Alejandro Morlachetti, Professor of Law at the University of Buenos Aires in Argentina, gave a presentation centred on an adequate standard of living, the right to social security and the right to work. He pointed out that an adequate standard of living for older persons is addressed in the International Covenant on Economic, Social and Cultural Rights and for persons with disabilities in the Convention on the Rights of Persons with Disabilities. Likewise the right to social security is based on provisions in various international legal instruments, such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the International Labour Organization conventions. General Comment No. 19 of the Committee on Economic, Social and Cultural Rights states that social security should cover sickness, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans. As pointed out by the independent expert on the question of human rights and extreme poverty (see A/HRC/14/31, para. 33), contributory systems of social security tend to exacerbate gender inequalities, in that older women are less likely to be covered and more likely to receive lower pensions. The right to work has been enshrined in the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities and the International Covenant on Economic, Social and Cultural Rights. Despite the mention of these issues in various instruments, a more coherent approach could be considered in relation to older persons. Mr. Morlachetti recommended (a) that clear standards regarding age be defined in relation to the right to work, including criteria for assessing justifications for age limits; and (b) that clear standards be adopted, ideally in a binding instrument, to advance understanding of the implications of the right to social security.

Najat el Mekkaoui, member of the National Council of Human Rights of Morocco, addressed ageing, resources and poverty in Morocco. The country has one of the lowest levels of pension benefits and health insurance in the Maghreb. Only 16 per cent of older persons receive a pension benefit, 83 per cent are illiterate, 83.7 per cent have no health coverage, more than 58 per cent have chronic illnesses and 58.6 per cent have their children as their only source of support. There are four public pension schemes and two professional pension schemes. Currently, pension reform is under discussion. A plan for older people was adopted in 2010 and the pension income doubled from 1996 to 2011. In addition, action to reduce poverty was taken, social housing was enhanced and the Government plans to increase the percentage of the population with health insurance. Ms. Mekkaoui's recommendations to address these issues were (a) social protection coverage for all workers (formal and informal); (b) a comprehensive pension reform; and (c) gaining a better

understanding of the effectiveness of pension and health systems by collecting more disaggregated data.

During the interactive dialogue, some Member States and civil society organizations made comments relating to addressing cuts in social security, the right to sufficient income for older persons and the inclusion of informal sector workers and women in measures to assure basic income in old age. Other issues raised included active societal participation of older persons after retirement, such as volunteering; best practices regarding the employment of older persons; older migratory workers; and how an international legal instrument could define requirements and responsibilities of Governments.

Panel 4
Abuse and violence

(Moderated by Maarit Kohonen Sheriff, Deputy Head of Office and Chief of Geographic Issues, OHCHR)

Athina-Eleni Georgantzi, Legal and Research Officer, AGE Platform Europe, stated that combating ageism and gender discrimination was key to any policy targeting elder abuse. She noted the need for a common definition of elder abuse to be enshrined in an international human rights instrument, as it would help in the screening of different forms of elder abuse and have a strong preventive effect. Ms. Georgantzi stated that while elder abuse was on the European Union's agenda, legal protections against abuse remained very much fragmented across the region's member States and rarely targeted older people. Moreover, soft-law approaches to elder abuse entailed protection gaps. Ms. Georgantzi called for a more comprehensive European Union-wide response, which should also be binding in nature. She concluded that only with enhanced awareness, a common analysis and vision, better coordination and exchange of information between stakeholders and improved data gathering would there be an enabling environment for older persons to fully enjoy their rights.

K. R. Gangadharan, President of the International Federation on Ageing and Chair of the Heritage Foundation in Hyderabad, India, shared his experience with the Heritage Hospital, a multi-specialty geriatric health-care facility in Hyderabad, where he noted the prevalent perception of older persons as worthless in today's fast-paced, globalized and increasingly industrialized world. Dr. Gangadharan shared his concerns about the scope of violence against older persons despite the growing number of international forums on the prevention of elder abuse. He highlighted poverty, illiteracy, rural dwelling and female gender as potential risk factors for such abuse. India's national programme of health care for the elderly incorporated some elements of legal protection against elder violence. The Maintenance and Welfare of Parents and Senior Citizens Act, adopted in 2007, was currently under revision. The national policy on older persons dated to 1999. The challenge, Dr. Gangadharan pointed out, was the lack of implementation of the policies in place, rather than lack of legal protection.

Claudia Martin, Co-Director of the Academy on Human Rights and Humanitarian Law, observed that human rights law was currently too fragmented with regard to the protection of elder persons against abuse and

violence. The existing legal framework is particularly flawed for cases of elderly abuse or violence that do not also constitute violations related to gender, disability, the right to liberty or freedom from torture. As such, older persons are highly vulnerable to abuse in the context of institutional care. Medical treatment without consent is also highly common among elders and not adequately covered by human rights law. Relevant reports by special procedures represent a valid source of references on the scope of vulnerabilities older persons face.

Bem Angwe, Executive Secretary of the National Human Rights Commission of Nigeria, presented the reality of older persons in Africa, and more particularly in Nigeria. He started by comparing the experience of older persons in Africa and in India, which had a lot in common. However, the African context presented more alarming issues. Poverty and HIV/AIDS were highlighted as the two main factors explaining the difference between past and present experiences of older persons. The reality of older persons had largely degraded from their being respected and serving as mediators in their communities to experiencing increasing amounts of violence and abuse, especially older women. Mr. Angwe noted that several types of abuse and violence, including gang rape, were increasingly being reported in some regions of Africa. In the past year, around 500 older women had been murdered in the United Republic of Tanzania following accusations of witchcraft. In other situations, older persons lost control of their property and/or financial resources. The African Union had been increasingly concerned about the vulnerabilities of elder persons and was negotiating an optional protocol to the African Charter on Human and Peoples' Rights to protect them from violence and abuse.

During the interactive dialogue, Member States and civil society organizations noted that violence and abuse against elders are not only about demographic change, but also about evolving societal norms. They highlighted the role of communities as both protectors and perpetrators of violence. To tackle the issue of elder abuse, one must identify not only normative gaps, but also knowledge gaps among societies. Delegations called for strengthened judicial mechanisms to prevent violence or discrimination against older persons, bearing in mind the vulnerability factors associated with gender, economic status and ethnic identity. Speakers recalled the necessity for Member States to implement current relevant elder protection policies.

Panel 5
Access to justice

(Moderated by Jill Adkins, Attorney and Consultant, Age Rights International)

Claudia Martin, Co-Director of the Academy on Human Rights and Humanitarian Law, pointed out that access to justice was fragmented but consisted of three major elements, namely (a) protection of due process, which can be found in all human rights treaties and is not group-specific; (b) the right to effective remedy, which protects only civil and political rights, but does not extend to the crucial economic, social and cultural rights of older persons; and (c) the right to liberty, which as a standard in its current definition does not assist older persons. Ms. Martin identified areas where major rights gaps exist

in current international conventions: (a) legal capacity and guardianship; (b) the opportunity to give free and prior consent; (c) compulsory institutionalization; (d) abuse and violence; and (e) continued incarceration and the death penalty. Ms. Martin noted that access to justice should also include preventive mechanisms.

Charles Sabatino, Director of the Commission on Law and Ageing of the American Bar Association, stated that the United States Department of Justice had launched an access to justice initiative in 2010 on the basis of three principles: (a) promoting accessibility by eliminating barriers that prevent people from understanding and exercising their rights; (b) ensuring fairness by delivering fair and just outcomes for all parties, including those facing financial and other disadvantages; and (c) increasing efficiency by delivering fair and just outcomes effectively. Mr. Sabatino stated that access to justice also required having knowledge and awareness of the full range of rights of older citizens, having reasonable pathways to exercise those rights and having reasonable legal resources and self-help avenues of redress to remedy and prevent the loss of those rights. Elder law rests on underlying values and goals such as autonomy, dignity and quality of life and concentrates on three issues: housing, financial well-being and health and long-term care. Mr. Sabatino turned to areas showing inadequacies in both normative law and implementation: legal assistance to lower-income persons; adult guardianship; elder abuse and exploitation; age discrimination; courts, prisons and ageing prisoners; and voting rights.

During the interactive dialogue, Member States and civil society organizations raised several related issues, including the possibility of out-of-court conflict resolution to avoid legal confrontation; the possibility of the Open-ended Working Group on Ageing developing tools to advance access to justice for older persons and provisions that could be used for an international legal framework; and the possibility of an international human rights instrument to address the normative gaps with regard to access to justice, good practices of national ombudspersons and dementia and guardianship. While human rights law applies to persons of all ages, some speakers felt that a convention on the rights of older persons would specify issues with regard to access to justice. Some existing regional and international legal instruments address access to justice and could be used as a blueprint.

Closing remarks by the Chair

In his closing remarks, the Chair summarized important themes and discussions addressed during the interactive panel sessions. He highlighted several proposals and suggestions put forward by Member States and civil society organizations.

The Chair stated that it was evident that Member States continued to be interested in strengthening the protection of the human rights of older persons. The session had provided an opportunity to exchange views on ways to address this topic, and some diverging opinions had emerged during the debate. Certain Member States felt strongly that the human rights of older persons were protected by existing instruments, and the focus should be placed on implementation by improving legal frameworks and building on existing

national, regional and international instruments, with the understanding that the Madrid International Plan of Action was sufficient to protect the human rights of older persons.

The Chair noted that some Member States had focused their statements on the development of law to ensure more comprehensive protection of the human rights of older persons. Others had stated that the existing treaty bodies were already constrained by heavy workloads and limited timelines, and therefore could not be further burdened with the responsibility of addressing the human rights of older persons. Some Member States had suggested calling upon existing United Nations rapporteurs, while others would prefer that the Human Rights Council adopt new special procedures to develop recommendations on how to better protect and promote the human rights of older persons. Certain Member States and civil society organizations had called for the drafting of a new international instrument, a United Nations convention on the rights of older persons, to provide a binding treaty that would identify the rights of older persons and the obligations of State parties.

The Chair assured the representatives of Member States and civil society organizations that their viewpoints would be reflected and taken into account. He emphasized the importance of the Working Group in that regard, as well as the need to renew its mandate to explore and deliberate on options for commonly acceptable solutions to protect and promote the enjoyment of all human rights and fundamental freedoms by older persons without discrimination.

Having stated that, the Chair proposed that the future course of action on the issue be left for the Third Committee to decide at the sixty-seventh session of the General Assembly.

IV. Adoption of the report on the organizational session

30. At the 7th meeting, on 24 August, the Working Group adopted the draft report on its third working session, as orally corrected (see A/AC.278/2012/L.2).